

CHARLES GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN RASSE, NEBRASKA
JEFF FLAKE, ARIZONA
MIKE CRAIG, IDAHO
THOM TILNIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
KAMALA D. HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

Kyle L. Davis, Chief Counsel and Staff Director
JENNIFER DICK, Democratic Chief Counsel and Staff Director

March 22, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Nielsen:

I am writing to request information regarding the Department's Student and Exchange Visitor Program (SEVP), and enforcement of regulations that prevent spurious businesses from posing as institutions of higher learning. Some of these businesses appear to be taking advantage of the fact that the U.S. government permits privately employed "Designated School Officials," over whom we have limited oversight, to authorize the issuance of student visas and approve foreign students to work in the U.S.

While many reputable colleges and universities enroll foreign students, dozens of questionable schools appear to be operating "visa mills" that provide little or no educational benefit to those who pay tuition, instead acting as surreptitious employment agencies for aliens seeking to work in the United States. These institutions, many of which operate as section 501(c)(3) (tax exempt) educational institutions, are costing American workers millions of dollars in lost taxes and employment opportunities, and contribute disproportionately to the large and growing population of foreign students and exchange visitors—nearly 80,000 in 2016—who overstay visas to remain in the United States without legal authorization. They also raise serious national security concerns.¹

¹ Any educational institution that encourages and facilitates fraudulent entry into the United States is ripe for exploitation by those who seek to do harm. Student visas have raised national security concerns since one of the 9/11 hijackers, and the Christmas Day bomber, traveled here on student visas.

Foreign Students Present a Growing Overstay Concern

The size of the overstay population is growing,² and students overstay at a much higher rate than other non-immigrant visitors. In 2017 DHS reported that “[o]f the 1,457,556 student and exchange visitors scheduled to complete their program in the United States in FY16, 79,818 stayed beyond their authorized window for departure, resulting in a 5.48 percent overstay rate” (compared to less than 2 percent for the general non-immigrant population).³ Of the 79,818 student overstays at the time of the report, 40,949 were suspected “in-country” overstays, that is, 2.81 percent of the 2016 departing student population was presumed to have remained, unlawfully, in the United States.⁴

The System Perversely Rewards Those Who Recruit and Hire Foreign Students

Given the growing overstay problem, we should be imposing tighter restrictions on foreign students who apply to U.S. schools. Instead, successive administrations have expanded paid “practical training” programs—effectively entry level career placement, but not available to U.S. students—which give an unlimited number of foreign students access to the U.S. job market.⁵ Ostensibly, these training programs are tied to the course of study, but with careful planning, students can leverage “Curricular Practical Training” (CPT) and “Optional Practical Training” (OPT) to work in the United States for more than a decade.⁶ As a result, the population has exploded⁷ with more than a quarter million foreign students working in one of these government-approved, alien-only, paid “training” programs, as of August 2017.⁸

These employment opportunities generate a huge draw for foreign students.⁹ For many aliens, U.S. wages outstrip home country earning potential by an order of magnitude, and paying relatively modest tuition and fees in exchange for the opportunity to net tens or hundreds of

² Warren, Robert, and Kerwin, Donald, Center for Migration Studies, “Since 2007 Visa Overstays have Outnumbered Undocumented Border Crossers by a Half Million, Executive Summary,” *available at* <http://cmsny.org/publications/jmhs-visa-overstays-border-wall/>. According to the Center for Migration Studies, in 2014, of the 11 million unauthorized immigrants in this country approximately 42 percent—or 4.5 million—have overstayed the time granted them by DHS, to remain here. This same report found that from 2007 to 2014, more of the unauthorized immigration population had originally arrived legally, either on a visa or through other legal means of entry, rather than through “entry without inspection.” This trend peaked in 2014 and has held true ever since, with overstays accounting for 66 percent of all new unauthorized immigrants in 2014 and beyond.

³ See “Fiscal Year 2016 Entry/Exit Overstay Report, Executive Summary” *available at* <https://www.dhs.gov/sites/default/files/publications/Entry%20and%20Exit%20Overstay%20Report%2C%20Fiscal%20Year%202016.pdf>.

⁴ *Id.*

⁵ ICE, “Practical Training,” *available at* <https://www.ice.gov/sevis/practical-training>.

⁶ USCIS, “Foreign Students,” *available at* <https://www.uscis.gov/i-9-central/complete-correct-form-i-9/complete-section-1-employee-information-and-attestation/foreign-students>; *see also* 8 CFR § 214.2(f)(10)(i).

⁷ Foreign students have long been permitted such employment but numbers historically have been small, until post-graduate employment authorization was extended to three years. *See Washington Alliance of Technology Workers v. U.S. Dept. of Homeland Security*, 156 F. Supp. 3d 123, 141-145 (D. D.C. Aug. 12, 2015) (describing foreign student employment programs, regulations, dating back to 1947).

⁸ Report - Statistics provided to the U.S. Senate Committee on the Judiciary by ICE, *Curricular Practical Training(CPT)/Optional Practical Training (OPT)* (Aug. 18, 2017) *available upon request*.

⁹ Indeed, the first two entries under “Student Benefits” on the SEVP web site are “Working in the United States” and “Training Opportunities in the United States.” *See* “Study in the States” *available at* <https://studyinthestates.dhs.gov/financial-ability>.

thousands in salary is an easy trade-off. Some applicants will do whatever it takes to get a student visa, and, as one put it: “I saw almost all (99.99%) students from India came here for one primary goal: Get a job and earn money in a short span.”¹⁰ Once here, many visa mill students will take their chances and overstay, remaining for as long as possible to maximize profit.

Schools are exploiting the lure of employment opportunities as well, to maximize revenues, because foreign students pay full tuition—up to “two or three times as much as local students.”¹¹ To capitalize on this windfall, many schools actively recruit foreign students with promises of U.S. employment, and some have gone so far as to reclassify programs so that foreign students qualify for extended work authorization.¹² For example, Pomona College, Williams College, Yale, and MIT all recently reclassified their Economics programs so that they qualify for the Department of Education’s “STEM” designation,¹³ because foreign students in STEM fields can work in the U.S. for three years or more after graduation.

Of greater concern is the obvious manipulation of the system by suspect educational institutions. For example, Stratford University—a nearly unknown visa mill in Northern Virginia that is reported to have 3,300 students on 4 campuses—has approved more foreign students for OPT STEM extensions than all Ivy League schools combined.¹⁴ It appears that Stratford and many similar schools operate in large part as a way for foreign students to sign up for OPT and CPT.

U.S. employers who hire foreign students also reap a windfall, because they are exempted from payroll taxes¹⁵—a cost savings of around 8 percent per student-employee. Some schools actually *promote* foreign students to the business community, for this reason.¹⁶ Employers who hire new U.S. grads, however, receive no such tax break—creating a perverse incentive to hire foreigners rather than newly graduated Americans.

¹⁰ Sukumar, Raghuram, “99.99% of Indian Students Studying in USA Want Just These Two Things,” (Feb. 8, 2015) *available at* <https://www.happyschools.com/why-indian-students-came-to-usa/>.

¹¹ Meckler, Laura, and Korn, Melissa, “Visas Issued to Foreign Students Fall, Partly Due to Trump Immigration Policy,” *Wall St. Journal* (Mar. 11, 2018) *available at* <https://www.wsj.com/articles/visas-issued-to-foreign-students-fall-partly-due-to-trump-immigration-policy-1520766000>.

¹² See Redden, Elizabeth, “Is Econ STEM?” *Inside Higher Ed.* (Feb. 19, 2018) *available at* <https://www.insidehighered.com/admissions/article/2018/02/19/economics-departments-reclassify-their-programs-stem-attract-and-help>.

¹³ *Id.* STEM stands for Science, Technology, Engineering, and Math. DHS provides a list of “STEM Designated Degree Programs,” derived from the Department of Education’s records, *available at* <https://www.ice.gov/sites/default/files/documents/Document/2016/stem-list.pdf>.

¹⁴ North, David, “Obscure Universities (One Now Closed) Got Far More OPTs than the Ivies,” *Center for Imm. Studies* (Jan. 17, 2017) *available at* <https://cis.org/North/Obscure-Universities-One-Now-Closed-Got-Far-More-OPTs-Ivies>.

¹⁵ See IRS, “Social Security/Medicare and Self-Employment Tax Liability of Foreign Students, Scholars, Teachers, Researchers, and Trainees,” *available at* <https://www.irs.gov/individuals/international-taxpayers/foreign-student-liability-for-social-security-and-medicare-taxes>.

¹⁶ See, e.g., San Francisco State University, “What Employers Should Know About Hiring International Students,” *available at* <https://www.sfsu.edu/~sicc/documents/handouts/employers/HiringIntlStudents.pdf> (“In fact, a company may save money by hiring international students because the majority of them are exempt from Social Security (FICA) and Medicare tax requirements.”).

Given all of these financial incentives—for students, schools, and employers—it's unsurprising that foreign student enrollment has exploded, while recent American grads are un- or under-employed.¹⁷ Unfortunately, our government has delegated much of the authority surrounding foreign student employment to the very individuals and entities that benefit the most—schools and school officials.

Schools Standing to Profit Are the Ones Who Approve Student Employment

A school must be certified by SEVP,¹⁸ before “Designated School Officials”¹⁹ (DSOs) are free to issue the form I-20, which permits an alien to apply for a student visa,²⁰ or to approve students for OPT and CPT employment programs.²¹ DSOs are also responsible for entering information about the student into the SEVP tracking system, for example, reporting whether the student actually arrived at school and enrolled for classes.²²

Prospective students take their DSO-issued I-20 form to a U.S. embassy or consulate and apply for a visa. Consular officers and Customs and Border Protection (CBP) officials at the port of entry ordinarily rely on SEVP's determination that the “school is a bona fide, established institution of learning which possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses of study.”²³ In short, once a school is SEVP-certified, the rest of the U.S. government recognizes its legitimacy for the purposes of accepting foreign students.

DSOs recommend students for “practical training” employment by entering a request in the Student and Exchange Visitor Information System (SEVIS), after which a student must file a request for employment authorization from U.S. Citizenship and Immigration services (USCIS).²⁴ CPT authorization is employer specific—the student must have an offer in hand—

¹⁷ See Mathews, Steve, “College Grads Stuck With Low Wages as U.S. Hiring Heats Up,” Bloomberg (Apr. 6, 2017) available at <https://www.bloomberg.com/news/articles/2017-04-06/college-grads-stuck-with-low-wages-as-hiring-in-u-s-heats-up>.

¹⁸ Schools have two primary paths to SEVP certification. A school that is accredited by a Department of Education (USDE)-approved accrediting agency may simply apply for SEVP certification. Alternately, a school that is not accredited by a federally approved accrediting agency may request certification based on “evidence in lieu of accreditation.” See “SEVP Policy Guidance S1.2: Evidentiary Requirements for Schools Not Meeting Eligibility Criteria in 8 CFR 214.3(b) and (c)” (Oct. 28, 2016) available at https://www.ice.gov/sites/default/files/documents/Document/2016/pg_12_evidentiary_rqmts_schools_not_mtg_eligibility_criteria.pdf.

¹⁹ In order to become a DSO, a school employee need only be nominated by the owner or head of the school; be a regularly employed member of the school administration who is located at the school, and whose compensation does not come from commissions for recruitment of foreign students and; be either a citizen or lawful permanent resident of the United States. I understand that SEVP recently instituted criminal background checks for certain DSO populations, and is developing additional security vetting procedures for those who hold these positions, which I applaud.

²⁰ U.S. Dept. of Homeland Security, “Study in the States – Getting Started with SEVP Certification,” available at <https://studyinthestates.dhs.gov/getting-started-with-sevp-certification>.

²¹ Students who wish to work must also obtain an employment authorization document (EAD) from USCIS.

²² DHS/ICE, “SEVIS Reporting Requirements for Designated School Officials,” available at <https://www.ice.gov/sevis/dso-requirements>.

²³ U.S. Dept. of State, Foreign Affairs Manual (FAM) § 9 FAM 402.5-5(H)(1)(c).

²⁴ See generally, DHS, “F/M Student Employment,” available at <https://studyinthestates.dhs.gov/sevis-help-hub/student-records/fm-student-employment>.

but a DSO can recommend a student for OPT before the student has located a position, and thus, without knowing the details of the job.²⁵ For both programs, the work must be “directly related” to the student’s major area of study.²⁶

Schools Under Investigation Continue Enrolling Foreign Students

Several schools that exhibit the suspect characteristics of likely visa mills²⁷ nonetheless retain SEVP certification,²⁸ and continue to issue I-20s and approve student employment.²⁹ Publicly available information regarding enforcement actions suggests that school decertification, when it does happen, is a slow process. For example, in the case of Herguan University, the school’s Principal DSO, Jerry Wang, was indicted on July 24, 2012, for conspiring to commit visa fraud and creating false documentation in support of the school’s SEVP certification application (among other offenses).³⁰ These activities surely called Herguan’s authority to issue I-20s into question, but it was not until almost three years later, on March 31, 2015, that SEVP finally withdrew Herguan’s certification—just shortly before Jerry Wang pled guilty on April 9, 2015.³¹ Herguan’s appeal of the SEVP action was effectively denied in December, 2016.³²

Another school, Tri-Valley University (TVU), was certified to admit 30 foreign students in 2009 but by May 2010—when ICE began an investigation—had enrolled 939. The next fall, Tri-Valley had 1,555 foreign students, before the school was shuttered due to an astonishing list of criminal activity by the school’s founder, Susan Su.³³ TVU “students” reportedly took no classes, but exchanged tuition and fees for I-20s and work approval.³⁴ After closure, hundreds of TVU students were, mystifyingly, permitted to transfer to other schools.³⁵

²⁵ *Id.*

²⁶ *Id.*

²⁷ These include: small campuses, often privately owned, with high numbers of foreign students, and a very high percentage of students participating in CPT or OPT.

²⁸ SEVP provides a school search tool at: <https://studyinthestates.dhs.gov/school-search>. A quick search for problematic schools mentioned in this letter shows that Northwestern Polytechnic University, Silicon Valley University, Virginia International University, and the ambitiously named University of North America (located in Vienna, Virginia), are all currently approved to issue I-20s and approve student employment.

²⁹ See, e.g., North, David, “The Dregs of Higher Education Damage Our Immigration System,” (Sept. 11, 2017) available at <https://cis.org/Report/Dregs-Higher-Education-Damage-Our-Immigration-System>.

³⁰ See generally, INDICTMENT CR-12-581 (N.D. Cal July 24, 2012) available at

<https://www.justice.gov/archive/usao/can/news/2012/docs/Jerry%20Wang%20Indictment.pdf>.

³¹ See *Herguan University v. ICE*, 16-cv-06656, Dkt. No. 17 at 3 (N.D. Cal. Dec. 2 2016). ICE actually withdrew Herguan’s certification briefly in 2012, after Herguan sent a response to the Notice of Intent to Withdraw to the wrong email address, but ICE subsequently reinstated the certification and took no further action for almost three more years.

³² *Id.*

³³ ICE Newsroom, “President of Bay Area University Convicted in Student Visa Fraud Scheme” (Mar. 24, 2014) available at <https://www.ice.gov/news/releases/president-bay-area-university-convicted-student-visa-fraud-scheme>.

³⁴ Molinet, Jason, “Founder of phony university that bilked millions from students and filed fraudulent visas gets 16 years,” NY DailyNews (Nov. 4, 2014) available at <http://www.nydailynews.com/news/crime/phony-university-founder-behind-fraudulent-visas-16-years-article-1.1999679>.

³⁵ See NAFSA, “SEVP Guidance On F-1 Transfers From TVU” (Feb. 7, 2011) available at https://www.nafsa.org/Resource_Library_Assets/Regulatory_Information/SEVP_Guidance_On_F-1_Transfers_From_TVU/.

Other Highly Suspect Schools Continue to Bring Foreign Students to the United States

Dozens of suspect schools continue to operate, bringing thousands of foreign students to the United States every year. A small but representative handful are listed below.³⁶ Despite documented harms to the U.S., and real reason for concern regarding the institutions' actual purpose, these schools continue to churn out I-20s and work approvals:

- **Silicon Valley University (SVU):** in 2015 hundreds of Indian students, many admitted to SVU, were denied entry to the United States by CBP.³⁷ News reports suggested that the school might be operating as a visa mill, and in candid interviews students admitted to working "at gas stations, retail outlets, and even restaurants as part of 'CPT' to earn a quick buck[.]"³⁸ Since that time, CBP has made no public statements regarding SVU's status, and the school has retained its SEVP certification, sponsoring thousands of aliens for student visas and approving unknown numbers for alien-only "training" programs.
- **Northwestern Polytechnic University (NPU):** NPU has a long history of suspect behavior, and many of NPU's students were turned around by CBP at ports of entry in 2015. In 2014, a whistleblower reported egregious abuses at the school, including the falsification of grades to permit foreign students to maintain their visas and keep working in the United States.³⁹ NPU "has become one of the country's largest importers of international students," and in 2015 that population had increased by more than 350 percent in two years—to 9,026.⁴⁰ Despite multiple credible reports suggesting that NPU operates a visa mill, and despite CBP's 2015 action, as of the writing of this letter, NPU retains its SEVP certification.
- **Stratford University:** On its web site, Stratford University touts its accreditation by the Accrediting Council for Independent Colleges and Schools (ACICS), with no mention of ACICS's recent derecognition by USDE, writing that it "has the authority to issue I-20s

³⁶ In a slight twist, the University of Management and Technology (UMT), with locations in Northern Virginia and Beijing, strongly recruits students from the U.S. military services, as well as foreign students. The school's activities raised such concerns that a whistleblower reported that the school, which was possibly collecting information about U.S. military technology and readiness. See Catherine Herridge, Pamela K. Browne & Cyd Upson, "Fox News Investigation: DOD-Funded School at Center of Federal Probes Over Suspected Chinese Military Ties," FOX NEWS (Feb. 24, 2017), available at <http://www.foxnews.com/politics/2017/02/24/fox-news-investigation-dod-funded-school-at-center-federal-probes-over-suspected-chinese-military-ties.html>. Like the others listed above, UMT remains on the list of schools certified to issue F-1 visas.

³⁷ Lakshman, Narayan, and Henry, Nikhila, "The American Dream and the Enigma of Departure," The Hindu (Jan. 23, 2016) available at <http://www.thehindu.com/opinion/op-ed/The-American-Dream-and-the-enigma-of-departure/article14014425.ece>.

³⁸ *Id.*

³⁹ Hensley-Clancy, Molly, "Making The Grades," BuzzFeed (May 26, 2016) available at https://www.buzzfeed.com/mollyhensleyclancy/inside-the-school-that-abolished-the-f-and-raked-in-the-cash?utm_term=.iuV7dJZXyM#.ql3Wzb4OB8 [hereinafter "Making the Grades"].

⁴⁰ Hensley-Clancy, Molly and Klinekenberg, Brendan, "These Obscure Colleges Sign Up Thousands of Foreign Students With Little Oversight," BuzzFeed, (Jan. 22, 2016) available at https://www.buzzfeed.com/mollyhensleyclancy/these-obscure-colleges-sign-up-thousands-of-foreign-students?utm_term=.axjqk3Q95Y#.yfrQEzBaWP.

by (sic) the U.S. Immigration and Naturalization Service (sic) for F-1 visas.”⁴¹ Among other errors, Stratford officials appear to be unaware that the Immigration and Naturalization Service was renamed in 2004, when it was folded into the Department of Homeland Security. This calls into question the required DSO attestations—a part of SEVP certification—that school officials are familiar with regulations governing foreign students.

- **University of North America (UNA):** this ambitiously named school indicates that it is “accredited by ACICS” and “listed by the US Department of Education.”⁴² The referenced USDE web site, however, indicates that ACICS is “no longer recognized” and the school’s “next review date” is 12/31/ 2017.⁴³ No more recent information on accreditation is posted. On December 27, 2016, UNA issued a press release in which it announced that ACICS derecognition would not affect “student visas, OPT, or CPT.”⁴⁴

Against this backdrop, I am trying to understand what DHS, ICE, and SEVP are doing to eliminate visa mills, protect U.S. graduates, and combat student visa overstays. To assist with this oversight, please respond to the following questions by April 13, 2018:

Questions

1. I am concerned that DSOs are permitted to recommend student employment without obvious oversight mechanisms. What steps, if any, does SEVP take to evaluate a DSO’s recommendation that a student be authorized to work?
 - a. Who determines that CPT or OPT is “directly related” to a student’s major area of study, and how is that requirement evaluated? Please provide any relevant policy memoranda, internal guidance, or procedures.
 - i. Does SEVP investigate actual employment conditions to ensure that student employment is indeed directly related? If the answer is yes, how many times have students been terminated from OPT or CPT because the actual work was not “directly related”?

⁴¹ See “Accreditation,” available at <http://www.stratford.edu/about/accreditation>. In addition to the grammatical/typographical error (one of many on the school’s web site), Stratford University appears to be unaware that the Immigration and Naturalization Service was renamed when it was folded into the Department of Homeland Security.

⁴² See “Accreditation and Certifications” available at http://old.uona.edu/UoNA/pub/LIT_6.asp?ctyp=LITERATURE&pcatid=0&catid=2220#.

⁴³ See DOE—Accreditation History, available at <https://ope.ed.gov/accreditation/Search.aspx>.

⁴⁴ See Press Release, available at <http://old.uona.edu/UoNA/pub/news.asp?catid=3&ctxid=27819>. This statement is inaccurate, as schools that offer STEM-OPT extensions must be accredited by a USDE-recognized accrediting agency, at the time the student submits the extension application. See DHS, “STEM OPT and Benefits for International Students,” available at <https://www.ice.gov/sevis/acics-loss-accreditation-recognition>.

- b. What government entity, if any, reviews the student-prepared and DSO-approved I-983 "training plan"?
 - i. If the training plan is reviewed by any DHS entity, what standards are applied to the review? Please provide any policy memoranda, internal guidance, or procedures related to the evaluation of form I-983.
 - c. What corrective measures are taken if a school or DSO does not comply with relevant SEVP rules, procedures, or regulations?
 - d. Has DHS/SEVP ever denied or terminated a school official's permission to act as DSO? If the answer is yes, please provide the number of officials who have been denied or terminated, and describe the facts and circumstances that warranted the denial/termination, in a confidential submission if necessary.
2. When DHS is made aware of alleged problematic activity that could reasonably lead to a school's decertification, at what point in the investigation or decertification process does SEVP terminate a school's authority to issue I-20s? To approve CPT or OPT?
 - a. When and how does SEVP (or any other DHS entity) notify other U.S. government agencies that concerns exist regarding the activity or certification status of a particular school?
 - b. How does SEVP track problematic schools to maintain awareness and continuity for enforcement purposes? Does SEVP maintain a list?
 - c. If a list of problematic schools is maintained, what criteria are used to determine whether a school should be added to the list?
 - d. Please provide any list(s) of problematic schools maintained in the SEVP certification context, in a confidential submission if necessary.
 3. Based on the limited publicly available information, SEVP appears to wait until the very end of an investigation or criminal prosecution, before it takes action against schools that engage in visa or document fraud, or other improper activity. This exposes the U.S. to significant risk, given the high student visa overstay rate, and the national security implications. Given that this is an administrative program, and DHS has authority to take appropriate action, why doesn't SEVP suspend a school's certification as soon as it becomes aware of serious allegations that could impact a school's certification, instead of waiting, sometimes for years, to take action?
 4. Regarding the following schools, please explain the impacts of, and reason for, the delay between the time information suggesting that the school (or a school official) was involved in improper activity became available, and the time when SEVP took action to stop the school from issuing I-20s, or approving students for CPT and OPT.
 - a. Herguan University: why did SEVP wait three years before decertifying the school?

- i. How many I-20s did Herguan issue after Jerry Wang was indicted on July 24, 2012? What was the date of the last I-20 issued by Herguan?
 - ii. How many Herguan students were approved for CPT or OPT after Wang was indicted?
 - iii. How many students entered the United States to attend Herguan between Wang's indictment and SEVP's actual decertification?
 - iv. If such information is available, please provide the number of Herguan students who are suspected in-country overstays as of the time of your response.
 - b. Tri-Valley University (TVU): ICE first received a tip about TVU in May 2010, and Susan Su was indicted in November, 2011.⁴⁵ When was TVU decertified by SEVP?
 - i. How many I-20s did TVU issue between May 2010 and the date of decertification? How many did TVU issue after November, 2011?
 - ii. How many TVU students were approved for CPT or OPT after May 2010? After November, 2011?
 - iii. How many students entered the United States to attend TVU after May 2010? After November, 2011?
 - iv. If such information is available, please provide the number of former TVU students who are suspected in-country overstays as of the time of your response.
5. Regarding each of the four schools in the bulleted list above, please answer the following questions:
 - a. Is the school still SEVP certified (as of the date of your response)?
 - b. Is the school (or any school official) under investigation for any improper activity that, if true, could result in decertification? If yes, please provide details regarding the nature of the investigation, in a confidential submission, if necessary.
 - c. Of the student population:
 - i. How many foreign (or "international") students are enrolled at the school?
 - ii. How many U.S. residents are enrolled?
 - iii. What is the total enrollment?
 - iv. How many students currently participate in CPT or OPT?
 - v. How many students have a home address in a state different than the school or campus? Of these, how many are participating in OPT?

⁴⁵ ICE Newsroom, "President of Bay Area University Convicted in Student Visa Fraud Scheme" (Mar. 24, 2014) available at <https://www.ice.gov/news/releases/president-bay-area-university-convicted-student-visa-fraud-scheme>.

6. **Overstay detection and prevention:** Under the SEVP framework, a DSO is responsible for reporting whether or not a student shows up and begins classes by the Initial Session Start Date and whether or not the student returns and enrolls at the start of each new session. Your publicly available guidance indicates that a DSO must “terminate” a student record in SEVIS if she or he knows that a student entered the country but did not enroll for classes, or should “cancel” the student, if the student did not enroll and the DSO is unsure if the student entered the country.⁴⁶
- a. What action, if any, does SEVP and/or ICE or DHS take if a student is terminated? What efforts does ICE make to locate and remove the student?
 - b. Please explain the difference between terminating a record in SEVIS, and cancelling one, in terms of immigration status. Specifically: If a student’s SEVIS status is cancelled, will that result in the student being out of legal status pursuant to U.S. immigration law?
 - i. If a student’s SEVIS record is “cancelled,” and he or she later attempts to enter the United States on his or her student visa, will entry be denied solely on the basis of the SEVIS cancellation (assuming no error by immigration officials)?
 - c. If such records are available, how many students were known or believed to be present in the United States (based on port of entry records or other reliable information) and subsequently were terminated in SEVIS because they did not report for the initial session, or for a new session, in the last three years (2015, 2016, 2017)?
 - i. Of those who were terminated, how many have been located by ICE?
 - ii. Please provide any information readily available regarding how many of such students are in removal proceedings or some other form of administrative proceedings related to immigration status.
7. **Financial support:** your regulations require that foreign students may be admitted if she or he presents “documentary evidence of financial support”⁴⁷ and the Department of State relies in part upon the I-20 as evidence that the student “is financially able to pursue the proposed course of study.”⁴⁸ Nonetheless, DHS policies permit paid student employment, which seems to run contrary to the concept that students be self-supporting. What is the earliest date after a student’s arrival for the initial term that he or she can begin to work for pay (in any program, including on-campus employment, CPT, or OPT)?
- a. How many students in 2015, 2016, and 2017, began working as soon as permitted?

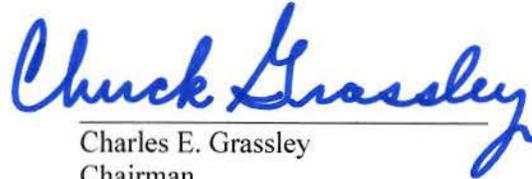
⁴⁶ See “SEVIS Reporting Requirements for Designated School Officials,” available at <https://www.ice.gov/sevis/dso-requirements>.

⁴⁷ 8 CFR 214.2(f)(i)(B) available at <https://www.gpo.gov/fdsys/pkg/CFR-2011-title8-vol1/pdf/CFR-2011-title8-vol1-sec214-2.pdf>.

⁴⁸ 9 FAM 402.5-5(D)(1)(d)(2).

Thank you in advance for your cooperation with this request. If you have any questions, please contact Brad Watts or Katherine Nikas of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Cc: The Honorable Elizabeth DeVos
Secretary
U.S. Department of Education

The Honorable Rex Tillerson
Secretary
U.S. Department of State